

REMARKS/ARGUMENTS

Reconsideration and allowance of the subject application are respectfully requested.

We have amended the specification above at page 1 to update the continuing data, as requested by the Examiner.

We have also amended independent claim 32 to incorporate the subject matter of claims 35, 41 and 42. Claim 43 is amended to be placed in independent form. Claims 35, 41 and 42 are consequently canceled without prejudice or disclaimer, as are non-elected claims 1-31, 33, 34, 36-40 and 44-75. No new matter is introduced by these amendments to the specification and claims, and entry and full consideration on the merits is requested.

In the July 3, 2003 Office Action, the Examiner indicated that the information disclosure statement filed March 7, 2003 failed to comply with the 37 CFR 1.98(a)(2). The Applicants' representative contacted the Examiner by telephone on September 4, 2003, and was informed that re-submission of the two references that were not initialed on the returned PTO-1449 (dated March 7, 2003), would take care of the matter. To that end, we re-submit these two references along with a new PTO-1449 form and information disclosure statement, and request entry of them, and return of the PTO-1449 form initialed.

The Examiner objected to the Declaration as listing as an inventor "Lisa A. Ware", with no further information or signature. We submit here a substitute Declaration omitting this name, which was mistakenly included on the original Declaration. There is no "Lisa A. Ware" who is an inventor of the invention of this application.

Claims 41-43 are rejected under 35 U.S.C. §112, second paragraph. The Examiner has questioned an alleged disparity between claims 41-43 and SEQ ID NO:16 and SEQ ID NO:27. In response, we note that there are two conventions for numbering amino acid positions in proteins: either from the amino-terminus of the pre-protein or from the amino-terminus of the mature, processed protein, minus the leader sequence. In our case, the amino acid residue numbering in SEQ ID NOs: 16 and 17 refers to position in the mature, processed protein. This is obvious within the context of the position of the

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mutation made. Consequently, someone having ordinary skill in this art would not find these sequences, nor these claims, indefinite. Reconsideration is therefore requested.

Claim 32 is rejected under 35 U.S.C. §102(b) as anticipated by any one of three Bavari references: (1) Bavari et al., J. Cellular Biochemistry, 1995 (Suppl.21A), (2) Bavari et al., J. Infectious Diseases, 1996, 174:338-345, or (3) Bavari et al., Vaccines, 1996, 96:135-141. Claims 32, 35 and 41 are rejected under 35 U.S.C. §102(a) as anticipated by Schlievert et al. (WO 96/40930). We have amended independent claim 32 above to include the subject matter of non-rejected claim 42 (and intervening claims 35 and 41). This is believed to overcome this rejection, and withdrawal of these rejections is believed to be in order.

In summary, all of the Examiner's outstanding rejections and objections have been addressed, and the application is believed to be in allowable form. Notice to that effect is earnestly solicited. No amendment made was related to the statutory requirements of patentability unless expressly stated herein.

If the Examiner has any questions, please contact applicants' representative Marlana K. Titus at (301) 977-7227 (**please note that this is a new telephone number**).

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